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REMARKS

The Applicants are confused by the restriction requirement of the Examiner. The Examiner states that claims 1-22 and 31 are linking claims and that each of the groups of claims listed in the restriction is an independent invention. The Applicants believe that the linking claims constitute a single invention. Therefore the Applicants elect provisionally elect the linking claims 1-22 and 31 and provisionally cancel claims 23-30 and 32-40.

The Examiner has required that an election be made in the species listed in claims 23-27. As the claims have been provisionally cancelled, no election is made.

The Examiner has required that an election be made in the species listed in claims 28-30. As the claims have been provisionally cancelled, no election is made.

The Examiner has required that an election be made in the species listed in claims 32-40. As the claims have been provisionally cancelled, no election is made.

The Examiner states that the methods for increasing dwell time cannot be used together as they appear to have different effects and requires that a species be elected. The Examiner states that the Applicants must elect a single species or state that all of the methods are equivalent. The Applicants submit that by the plurality of inventions, as itemized by the Examiner, demonstrate that the methods can be used together. The Examiner lists 5 methods on page 8 of the election/restriction requirement:

- A. Induction of hypothermia
- B. Isolation of the heart from systemic circulation
- C. Induction of hypothermia and isolation of the heart from systemic circulation
- D. Induction of complete or near complete cardiac arrest
- E. Induction of reversible bradycardia

Option C is a combination of options A and B. Clearly the methods can be used

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together. Example 2 (paragraphs 0032-0034) demonstrate that the methods listed can be used together. In paragraph 0033, hypothermia is induced and the heart is isolated from systemic circulation. There is no reason that induction of hypothermia and/or isolation from systemic circulation could not be combined with induction of complete or near complete cardiac arrest or induction of reversible bradycardia. The Applicants submit that the election required by the Examiner is improper and request that the election requirement be reconsidered.

As an election is required to be responsive to the restriction requirement, the Applicants have elected that the increase in dwell time be produced by induction of cardiac arrest or near cardiac arrest as indicated in the amended claims above. Claims 2-4 and 6 have been amended to state that the method of claim 1 further includes the various methods for increasing dwell time as shown in the amended claims. Therefore, it is clearly indicated that the methods can be used together and comprise a single invention.

The Examiner states that claim 7 contains patentably distinct species of vascular permeabilizing agents. The Applicants submit that the vascular permeabilizing agents of claim 7 are not patentably distinct in the context of the method of the invention. Therefore, no election was made.

By this election, and in accordance with 37 C.F.R. § 1.142(b), the claims of Groups I, II and III are withdrawn. The linking claims, claims 1-22 and 31 are retained for examination at this time.

FEES

It is believed that no fee is due with this amendment. However, if a fee is due, the Commissioner is hereby authorized to charge any fees to deposit account 02-4070 referencing case number 6627-PA0123.

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CONCLUSION

The Applicants believe that this submission is fully responsive and puts the case in proper form for Examination. If the Examiner believes that any issues remain, the Examiner is invited to call the agent, collect, at the number listed below.

Respectfully submitted,

Dated: September 12, 2003

By:


Colleen J. McKiernan, PhD
Agent for Applicant
Registration No. 48,570

BROWN MARTIN HALLER & McCLAIN LLP
1660 Union Street
San Diego, California 92101

Telephone: (619) 238-0999
Facsimile: (619) 238-0062

Docket No.: 6627-PA0123

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